

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS

In re: MINACAPILLI, SALVATORE  
SSN: xxx-xx-3670

Chapter 13  
Case No. 11-21796-FJB

MOTION OF CHAPTER 13 TRUSTEE FOR ORDER DISMISSING CASE FOR FAILURE  
TO FILE A CONFIRMABLE PLAN AND MAKE PLAN PAYMENTS .  
NOTICE OF BAR DATE OBJECTIONS/RESPONSES

Now comes the Chapter 13 Trustee (the "Trustee") and respectfully moves the Court for an Order dismissing this case, and in support thereof states as follows:

1. On December 20, 2011, the above-captioned Debtor (the "Debtor") filed a petition for relief under Chapter 13 of the United States Bankruptcy Code.
2. On February 02, 2012, the Trustee convened and presided over a 341 Meeting of creditors as required by 11 U.S.C §341 wherein the Debtor appeared with Counsel and was examined.
3. The Debtor filed the Plan on January 30, 2012. The Plan proposes a payment of \$1,871.00 per month to the Trustee for a term of 60 months with a dividend to unsecured creditors of 0.0%.
4. The Trustee asserts that the Debtor is delinquent in payments to the Trustee a total of \$5,613.00 which is equal to 3.0 months of payments. Failure to make timely payments is grounds for dismissal pursuant to 11 U.S.C §1307. This amount may increase prior to hearing.
5. In addition, on August 30, 2012 the Court entered the following Order: Order dated 8/30/2012 RE: [43](#) Motion filed by Creditor Waterfall Victoria Mortgage Trust 2011-SBC1 for Relief from Stay Re: 363 Revere Street, Revere, Massachusetts. FOR THE REASONS SET FORTH ON THE RECORD, THE MOTION IS GRANTED. (Entered: 08/31/2012; SEE Docket entry # 48.)
6. The Plan, however, proposes that the Debtor will retain the property. Consequently, the Plan is inconsistent with the Debtors' present financial affairs.
7. The Debtor has failed to file an Amended Plan. Failure to file a confirmable Plan is grounds for dismissal pursuant to 11 U.S.C. §1307(c) for unreasonable delay which is prejudicial to creditors.

WHEREFORE, the Trustee respectfully requests that this Court enter an Order dismissing this case.

Dated: September 27, 2012

Respectfully Submitted,  
By: /s/ Carolyn Bankowski

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ORDER DISMISSING CASE

The motion of the Chapter 13 Trustee to dismiss this case having come before this Court, due notice having been given, and for cause shown, it is hereby:

ORDERED: that this Chapter 13 case is dismissed pursuant to 11 U.S.C. §109(g)(1).

Dated: \_\_\_\_\_, 2012

\_\_\_\_\_  
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
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NOTICE OF BAR DATE FOR OBJECTIONS/RESPONSES

Notice is given that any responses and/or objections to this motion are to be filed within twenty-one (21) days of the date hereof. If no timely objections/responses are filed, the Court may act on this motion without further notice or hearing as provided by 11 U.S.C. §102(1)(B).

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the within Trustee's Motion to Dismiss was served upon the Debtor, Debtor's Counsel of record and those parties listed on the following service list by first class mail, postage prepaid or by electronic notice.

Dated: September 27, 2012

/s/ Carolyn Bankowski

SERVICE LIST

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